

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15710 of Isaac L. and Betty M. Johnson, pursuant to 11 DCMR 3107.2 for a variance from the use provisions (Subsection 330.5) to allow variety office and storage use on the first floor in an R-4 District at premises 1329 Constitution Avenue, N.E. (Square 1034, Lot 71).

HEARING DATE: September 30, 1992

DECISION DATE: September 30, 1992 (Bench Decision)

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at 1329 Constitution Avenue, N.E., on the south side of the Street between 13th and 14th Streets, N.E. The property is zoned R-4.

2. The site comprises 1,786 square feet of land area and is improved with a two-story brick rowhouse that was constructed in the early 1900s. The structure contains 1,534 square feet of gross floor space. The first floor consists of two rooms and a small bathroom. It was last used as a retail variety store and is currently vacant. The second floor of the structure has always been used as a residential unit and is currently rented as a two-bedroom apartment. The second floor is not the subject of this application.

3. The application proposes to use the first floor of the subject structure for two or three offices. The application also proposes to use a portion of the subject premises for storage purposes.

4. The subject site is located in an R-4 District which permits matter of right development of residential uses including detached, semi-detached and row single-family dwellings and flats with a minimum lot width of 1,800 square feet, a maximum lot occupancy of 60 percent, and a maximum height of three stories/40 feet. Office and storage uses are not permitted in the R-4 District.

5. The application is requesting a use variance to allow variety, office and storage use on the first floor of the subject structure.

6. The applicant testified that he would use one of the existing rooms as his personal office and rent the remaining space as offices for other people. The applicant contends that the types

of goods that would be stored in the proposed storage would be mainly office materials.

7. By report dated September 22, 1992 and through testimony at the hearing the Office of Planning recommended denial of the application. The Office of Planning stated that the applicant is requesting a use variance which requires introduction of evidence and proof by the applicant of undue hardship unique to the subject property and inherent in the property itself. The Office of Planning further stated that it could not determine such a hardship in this case.

8. Advisory Neighborhood Commission (ANC) 6A, by report dated September 15, 1992, stated that the ANC supports the application, with the condition that the variance for retail use be removed from the application.

9. One letter of support was submitted to the record by a neighbor.

10. No one appeared at the hearing to testify either in support or in opposition of the application.

11. The Capitol Hill Restoration Society, Inc. (CHRS), by letter dated September 3, 1992 opposed the application. The CHRS indicated that there is no community benefit achieved by the proposed commercial use and the use can easily be served by the existing buildings in the nearby commercial zone. CHRS believes that the property should be converted to residential use.

**FINDINGS OF FACT:**

1. There is nothing inherent in the property which makes it unique, or extra ordinary, such that it cannot be used for a purpose for which it was zoned.

2. The owner has shown no undue hardship placed upon him if the property is put to a permitted use.

3. To allow the requested use variance would result in substantial detriment to the public good and it would impair the intent, purpose and integrity of the Zone Plan.

**CONCLUSIONS OF LAW AND OPINION:**

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires proof of undue hardship unique to the subject property and inherent in the property itself.

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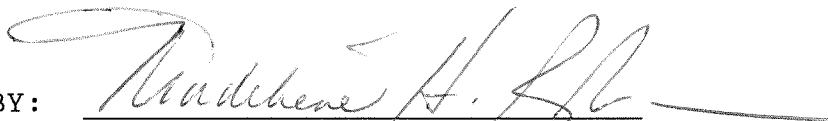
The Board concludes that the applicant has not met the burden of proof necessary for the granting of a use variance. Furthermore, the Board concludes that there is no uniqueness inherent in the subject property and there is no evidence of undue hardship for the applicant if the requested use variance is not granted.

The Board further concludes that the requested relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zone Plan. Accordingly it is **ORDERED** that the application is **DENIED**.

VOTE: 4-0 (Sheri M. Pruitt, Paula L. Jewell, John G. Parsons, Carrie L. Thornhill to deny; Angel F. Clarens not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
MADELIENE H. ROBINSON  
Director

FINAL DATE OF ORDER:                     AUG 8 1995                    

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

ORD15710/ET/CT

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT

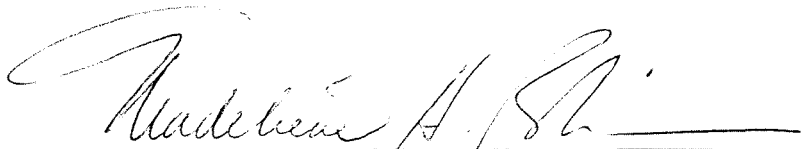


BZA APPLICATION NO. 15710

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on AUG 8 1995 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Issac L. & Betty M. Johnson, Sr.  
4508 Venton Place  
Lanham, Maryland 20706

Keith Mitchell, Chairperson  
Advisory Neighborhood Commission 6A  
1341 Maryland Avenue, N.E.  
Washington, D.C. 20002

  
MADELIENE H. ROBINSON  
Director

DATE: AUG 8 1995.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15711 of Steven Johnson, pursuant to 11 DCMR 3107.2, for a variance from the minimum width of lot requirements (Subsection 401.3) for construction of a single-family row dwelling in an R-4 District at premises 1332 T Street, N.W. (Square 238, Lot 79).

HEARING DATE: January 13, 1993  
DECISION DATE: January 13, 1993 (Bench Decision)

SUMMARY ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 1B and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 1B, and in proximity to ANC 2F. ANC 1B, which is automatically a party to the application, did not file a written statement of issues and concerns.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 401.3. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore ORDERED that the application is GRANTED.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.